

COPY

COMBINED DECLARATION AND POWER OF ATTORNEY FOR  
UTILITY PATENT APPLICATION

Docket No. 249.P1

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I BELIEVE I AM THE ORIGINAL, FIRST AND SOLE INVENTOR (if only one name is listed below)  
OR AN ORIGINAL, FIRST AND JOINT INVENTOR (if more than one name is listed below) OF THE SUBJECT  
MATTER WHICH IS CLAIMED AND FOR WHICH A PATENT IS SOUGHT ON THE INVENTION

Entitled: PRODRUGS OF PHOSPHONATE NUCLEOTIDE ANALOGUES AND  
METHODS FOR SELECTING AND MAKING SAME

the specification of which:

(check one) \_\_\_ is attached hereto:

X was filed on July 20, 2001 as

Application Serial No. 09/909,560

and was amended on \_\_\_\_\_;  
(if applicable)

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION,  
INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information  
which is material to the patentability of the claims of this application in accordance with Title 37,  
Code of Federal Regulations, §§ 1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

**COMBINED DECLARATION AND  
POWER OF ATTORNEY**

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(b) Under this section, Information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)**  
(34 U.S.C. § 119(e))

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

60/220,021 filed July 21, 2000

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than twelve months prior to this application.

I hereby appoint the following attorneys and agents to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to said invention:

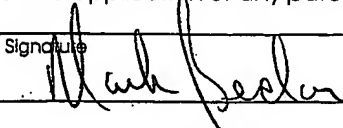
Max D. Hensley - Reg. No. 27,043  
Mark L. Bosse - Reg. No. 35,071


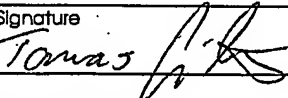
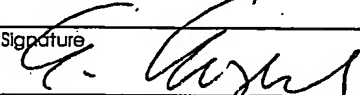
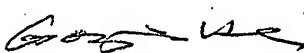
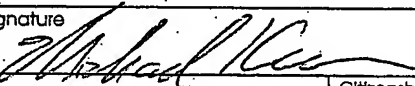
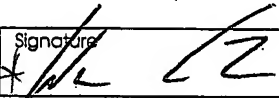
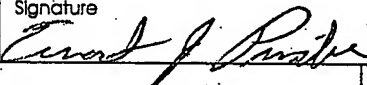
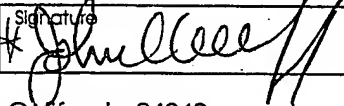
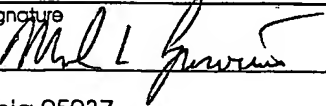
and: \_\_\_\_\_

Address all correspondence to: **GILEAD SCIENCES, INC.**  
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Address all telephone calls to: Max D. Hensley at 650-522-5878.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Becker et al.

Serial No: unassigned Art Unit: unassigned

Filed: March 11, 2004 Customer No. 25000

For: Prodrugs of Phosphonate Nucleotide Analogues

**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**ASSOCIATE POWER OF ATTORNEY**

Please recognize as Associate Attorney in this case:

William Schmonsees

Reg. 31,796

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By: 

Mark L. Bosse  
Vice President - Intellectual Property

**GILEAD SCIENCES, INC.**  
333 Lakeside Drive  
Foster City, CA 94404

Date: March 11, 2004

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**CERTIFICATION UNDER 37 CFR 1.10**

I hereby certify that this "New Application Transmittal" and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date March 11, 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV382657797US addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Robin Torres

(Type or print name of person mailing paper)

  
(Signature of person mailing paper)